

By the Committee on Corrections and Representative  
Trovillion

1                                   A bill to be entitled  
2           An act relating to corrections; amending s.  
3           945.10, F.S.; specifying certain records  
4           included within the confidential inmate medical  
5           records of the Department of Corrections;  
6           authorizing release of such records to the  
7           Correctional Medical Authority and specifying  
8           records to be included; amending s. 945.603,  
9           F.S.; authorizing the authority to conduct  
10          investigative inquiries and reviews of health  
11          care services; amending s. 945.6032, F.S.;  
12          providing for oversight of medical quality  
13          management records by the authority's medical  
14          review committee; amending s. 945.6035, F.S.;  
15          revising the procedures and requirements for  
16          the resolution of disputes between the  
17          authority and the department; amending s.  
18          945.6036, F.S.; revising procedures and  
19          requirements for enforcement of dispute  
20          resolution decisions; providing an effective  
21          date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25           Section 1. Paragraph (a) of subsection (1) and  
26           subsection (2) of section 945.10, Florida Statutes, are  
27           amended to read:

28           945.10 Confidential information.--

29           (1) Except as otherwise provided by law or in this  
30           section, the following records and information of the  
31           Department of Corrections are confidential and exempt from the

1 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
2 Constitution:

3 (a) Mental health, medical, or substance abuse records  
4 of an inmate or an offender, including medical quality  
5 management records, individual inmate medical records, and  
6 records relating to decisions made by the department not to  
7 provide mental health, medical, or substance abuse treatment.

8 (2) The records and information specified in  
9 paragraphs (1)(a)-(h) ~~(1)(b)-(h)~~ may be released as follows  
10 unless expressly prohibited by federal law:

11 (a) Information specified in paragraph (1)(a) to the  
12 Correctional Medical Authority or a person designated in  
13 writing by the executive director of the authority. The  
14 department is specifically directed to include mental health,  
15 medical, or substance abuse records, medical quality  
16 management records, and all reports and records which relate  
17 to the department's statewide delivery of these services,  
18 including inmate management activity records. A request for  
19 records or information pursuant to this paragraph must be made  
20 in writing by the executive director of the authority and must  
21 include a statement describing the need for the records or  
22 information.

23 ~~(b)(a)~~ Information specified in paragraphs (1)(b),  
24 (d), and (f) to the Office of the Governor, the Legislature,  
25 the Parole Commission, the Department of Children and Family  
26 Services, a private correctional facility or program that  
27 operates under a contract, the Department of Legal Affairs, a  
28 state attorney, the court, or a law enforcement agency. A  
29 request for records or information pursuant to this paragraph  
30 need not be in writing.

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1           (c)~~(b)~~ Information specified in paragraphs (1)(c),  
2 (e), and (h) to the Office of the Governor, the Legislature,  
3 the Parole Commission, the Department of Children and Family  
4 Services, a private correctional facility or program that  
5 operates under contract, the Department of Legal Affairs, a  
6 state attorney, the court, or a law enforcement agency. A  
7 request for records or information pursuant to this paragraph  
8 must be in writing and a statement provided demonstrating a  
9 need for the records or information.

10           (d)~~(c)~~ Information specified in paragraph (1)(b) to an  
11 attorney representing an inmate under sentence of death,  
12 except those portions of the records containing a victim's  
13 statement or address, or the statement or address of a  
14 relative of the victim. A request for records of information  
15 pursuant to this paragraph must be in writing and a statement  
16 provided demonstrating a need for the records or information.

17           (e)~~(d)~~ Information specified in paragraph (1)(b) to a  
18 public defender representing a defendant, except those  
19 portions of the records containing a victim's statement or  
20 address, or the statement or address of a relative of the  
21 victim. A request for records or information pursuant to this  
22 paragraph need not be in writing.

23           (f)~~(e)~~ Information specified in paragraph (1)(b) to  
24 state or local governmental agencies. A request for records or  
25 information pursuant to this paragraph must be in writing and  
26 a statement provided demonstrating a need for the records or  
27 information.

28           (g)~~(f)~~ Information specified in paragraph (1)(b) to a  
29 person conducting legitimate research. A request for records  
30 and information pursuant to this paragraph must be in writing,  
31 the person requesting the records or information must sign a

1 confidentiality agreement, and the department must approve the  
2 request in writing.

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4 Records and information released under this subsection remain  
5 confidential and exempt from the provisions of s. 119.07(1)  
6 and s. 24(a), Art. I of the State Constitution when held by  
7 the receiving person or entity.

8 Section 2. Subsections (6) through (15) of section  
9 945.603, Florida Statutes, are renumbered as subsections (7)  
10 through (16), respectively, and a new subsection (6) is added  
11 to said section to read:

12 945.603 Powers and duties of authority.--The purpose  
13 of the authority is to assist in the delivery of health care  
14 services for inmates in the Department of Corrections by  
15 advising the Secretary of Corrections on the professional  
16 conduct of primary, convalescent, dental, and mental health  
17 care and the management of costs consistent with quality care,  
18 by advising the Governor and the Legislature on the status of  
19 the Department of Corrections' health care delivery system,  
20 and by assuring that adequate standards of physical and mental  
21 health care for inmates are maintained at all Department of  
22 Corrections institutions. For this purpose, the authority has  
23 the authority to:

24 (6) Conduct such investigative inquiries and reviews  
25 of health care services, including medical quality management  
26 records, as the authority deems necessary to assess the  
27 adequacy of inmate health care.

28 Section 3. Subsection (1) of section 945.6032, Florida  
29 Statutes, is amended to read:

30 945.6032 Quality management program requirements.--

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1           (1) The authority shall appoint a medical review  
2 committee pursuant to s. 766.101 to provide oversight for the  
3 Department of Corrections' inmate health care quality  
4 management program and medical quality management records. The  
5 authority shall also designate one of its members to serve on  
6 the Department of Corrections' medical review committee in  
7 order to ensure coordination between the department and the  
8 authority with regard to issues of quality management and to  
9 enhance the authority's oversight of the Department of  
10 Corrections' quality management system.

11           Section 4. Section 945.6035, Florida Statutes, is  
12 amended to read:

13           945.6035 Dispute resolution.--

14           (1) The authority and the Assistant Secretary for  
15 Health Services shall attempt to expeditiously resolve any  
16 disputes arising between the authority and the department  
17 regarding the physical and mental health care of inmates.

18           (2) If the authority and the Assistant Secretary for  
19 Health Services are unable to resolve a dispute regarding  
20 inmate physical or mental health care, the authority may  
21 submit a written notice of noncompliance to the Secretary of  
22 Corrections and the Assistant Secretary for Health Services,  
23 setting forth each issue in controversy, and the position of  
24 the authority, and the corrective measures the authority seeks  
25 to have implemented by the department. The assistant  
26 secretary, with the concurrence of the secretary, for Health  
27 Services shall respond to the authority within 15 ~~30~~ days  
28 after receipt of such written notice. If the department does  
29 not concur with the corrective measures noticed by the  
30 authority, the authority shall place the assistant secretary's  
31 response on the agenda of the next regularly scheduled or

1 ~~emergency meeting of the authority. If the dispute remains~~  
2 ~~unresolved, the authority may submit a written report to the~~  
3 ~~secretary detailing the authority's objections. The Assistant~~  
4 ~~Secretary for Health Services shall submit a written report~~  
5 ~~setting forth his or her position to the secretary on the~~  
6 ~~issue or issues raised by the authority within 5 working days~~  
7 ~~after receipt of the submission by the authority.~~

8 (3) After consideration of the position of the  
9 authority and the department at the authority's meeting, the  
10 authority members shall determine by majority vote whether:

11 (a)1. The current practice of the department or an  
12 institution, agent, or employee of the department fails to  
13 comply with an adopted health care standard; or

14 2. The standard of care existing at the department or  
15 an institution of the department does not conform to the  
16 standard of care generally accepted in the professional health  
17 community at large; and

18 (b) The actions recommended in the written notice of  
19 noncompliance should be enforced by the authority.

20 (4) The decision of the authority made by majority  
21 vote at its meeting is final and binding on the department and  
22 shall not be subject to any proceeding or review pursuant to  
23 chapter 120. The department shall have 21 days after the  
24 authority renders its decision of noncompliance with  
25 subparagraph (3)(a)1. or 2. in which to challenge the decision  
26 of the authority. The department's sole remedy shall be a  
27 proceeding in the Circuit Court in Leon County on the basis  
28 that the authority's decision is an abuse of discretion or  
29 contrary to law.

30 ~~(3) The secretary shall review any disputes between~~  
31 ~~the authority and the Assistant Secretary for Health Services,~~

1 ~~and shall provide written notice to the authority of his or~~  
2 ~~her decision regarding such disputes within 40 days after the~~  
3 ~~date when the authority provides written notice of the dispute~~  
4 ~~to the secretary.~~

5 ~~(4) If, at the end of the 40-day period, no resolution~~  
6 ~~has been reached, the authority is authorized to appeal to the~~  
7 ~~Administration Commission for a review and resolution of the~~  
8 ~~dispute between the department and the authority.~~

9 ~~(5) The authority, within 30 days after receiving~~  
10 ~~written notice of the action of the secretary or, if no~~  
11 ~~response is received, within 30 days after the secretary's~~  
12 ~~response is due pursuant to subsection (3), may file an appeal~~  
13 ~~by petition to the Administration Commission, filed with the~~  
14 ~~Secretary of the Administration Commission. The petition~~  
15 ~~shall set forth the issues in controversy between the~~  
16 ~~authority and the department, in the form and manner~~  
17 ~~prescribed by the Administration Commission, and shall contain~~  
18 ~~the reasons for the appeal. The department has 5 days after~~  
19 ~~delivery of a copy of any such petition to file its reply with~~  
20 ~~the Secretary of the Administration Commission, and the~~  
21 ~~department shall also deliver a copy of its reply to the~~  
22 ~~authority.~~

23 ~~(6) The issues which may be raised by the authority on~~  
24 ~~appeal to the Administration Commission are:~~

25 ~~(a) Adoption or implementation by the department of a~~  
26 ~~health care standard which does not conform to the standard of~~  
27 ~~care generally accepted in the professional health community~~  
28 ~~at large.~~

29 ~~(b) Failure of the department to comply with an~~  
30 ~~adopted health care standard.~~

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1           ~~(c) Failure to timely file a corrective action plan~~  
2 ~~regarding all deficiencies which are determined by the~~  
3 ~~authority to exist at an institution, as required pursuant to~~  
4 ~~s. 945.6031.~~

5           ~~(d) Failure to implement a corrective action plan~~  
6 ~~filed pursuant to s. 945.6031.~~

7           ~~(7) Within 30 days after receipt of a petition from~~  
8 ~~the authority, the Secretary of the Administration Commission,~~  
9 ~~or his or her designee, shall conduct an informal hearing to~~  
10 ~~consider the matters presented in the petition and the reply,~~  
11 ~~and after the informal hearing shall promptly submit a report~~  
12 ~~of the findings and recommendations to the Administration~~  
13 ~~Commission. Within 30 days after the informal hearing, the~~  
14 ~~Administration Commission shall approve either the position of~~  
15 ~~the authority or that of the department. If the position of~~  
16 ~~the authority is approved, the Administration Commission shall~~  
17 ~~set forth whatever remedial measures it deems appropriate and~~  
18 ~~the department shall implement such remedial measures. The~~  
19 ~~decision of the Administration Commission is final and binding~~  
20 ~~on the authority and the department and shall not be subject~~  
21 ~~to appeal pursuant to s. 120.68.~~

22           Section 5. Section 945.6036, Florida Statutes, is  
23 amended to read:

24           945.6036 Enforcement.--

25           (1) If the authority determines that the written  
26 notice of noncompliance should be enforced as described in s.  
27 945.6035(3), the authority is authorized to petition the  
28 Circuit Court in Leon County for an order requiring the  
29 department to substantially comply with the corrective  
30 measures contained in the authority's notice of noncompliance  
31 and establishing a time for such compliance.~~If the department~~



1 ~~fails to substantially comply with the dispute resolution~~  
2 ~~decision of the Administration Commission or fails to~~  
3 ~~implement required remedial action within 45 days after such~~  
4 ~~decision or within the time period set by the Administration~~  
5 ~~Commission, whichever period is longer, the authority is~~  
6 ~~authorized to petition the Circuit Court in Leon County for an~~  
7 ~~order requiring the department to comply.~~ For the purposes of  
8 this section, "substantial compliance" means a firm effort to  
9 comply fully with the decision without omitting any essential  
10 part, and that any omission consists solely of an unimportant  
11 defect.

12 (2) If the authority fails to initiate a circuit court  
13 proceeding pursuant to this section, an inmate has the right  
14 to file a verified petition with the authority requesting that  
15 such a proceeding be initiated. The petition shall set forth  
16 with particularity the manner in which the department has  
17 failed to implement the decision of the authority  
18 ~~Administration Commission~~, including any required remedial  
19 actions. The authority has 30 ~~45~~ days after receipt of a  
20 verified petition to either initiate an action in circuit  
21 court pursuant to this section or advise the inmate in writing  
22 of the reason such an action will not be initiated.

23 (3) Within 30 days after service of the written  
24 decision of the authority setting forth its reason why an  
25 action will not be initiated by the authority pursuant to this  
26 section, an inmate may initiate an appropriate proceeding in  
27 the Circuit Court in Leon County to require the department to  
28 substantially comply with the decision of the authority  
29 ~~Administration Commission~~.

30 Section 6. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

Specifies certain records included within the confidential inmate medical records of the Department of Corrections. Authorizes release of such records to the Correctional Medical Authority and specifies the records to be included. Authorizes the authority to conduct investigative inquiries and reviews of health care services. Provides for oversight of medical quality management records by the authority's medical review committee. Revises the procedures and requirements for the resolution of disputes between the authority and the department and for enforcement of dispute resolution decisions.